REMARKS

The Applicants request reconsideration of the rejection.

Claims 1, 4-8 and 10-15 remain pending.

Claims 1, 10, 12 and 16 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Fukumoto et al., U.S. Patent Publication No. 2003/0012139 (Fukumoto) in view of Gilbert et al., U.S. Patent No. 6,771,595 (Gilbert). The Applicants traverse as follows.

Claim 16 has been canceled. Claims 1 and 12 are independent claims.

Each of claims 1 and 12 has been amended to recite extension function processors connected to the switches, wherein the extension function processors perform processing to be executed on a higher layer than a layer on which a received packet is transferred. Further, the claims have been amended to require that, on the basis of the number of packets predicted by the statistic information collecting processor, an extension function processor is selected from the extension function processors, to which the packets are transmitted.

Fukumoto and Gilbert fail to disclose or fairly suggest the extension processors of the present invention. More particularly, Fukumoto and Gilbert, whether taken individually or in any reasonable combination, fail to disclose an apparatus of transmitting packets as claimed in claim 1, comprising a plurality of line cards, switches connected to the plurality of line cards, extension function processors connected to the switches, and a statistic information collecting processor connected to the switches, wherein on the basis of the amount of packets predicted by the statistic information collecting processor to be received, an extension function processor to which the packets are transmitted is selected from

the extension function processors. Further, the combination of Fukumoto and Gilbert does not disclose a method of transmitting packets as claimed in claim 12, including the steps of receiving packets through interfaces, counting the number of packets received, predicting the number of packets to arrive at each of the interfaces in the future on the basis of the number of packets counted, and selecting, from the extension function processors, an extension function processor to which the received packet is transmitted on the basis of the number of packets predicted.

Because the independent claim 1 has been demonstrated to be patentable, its dependent claim 10 is likewise patentable, at least based on the patentable features of claim 1. Thus, the separate patentability of claim 10 will not be argued at this time.

Claims 4 and 11 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Fukumoto in view of Gilbert and Manning, U.S. Patent No. 6,473,400 (Manning). Claim 5 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Fukumoto in view of Gilbert and Born, U.S. Patent No. 6,631,484 (Born). Claims 6, 7 and 13 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Fukumoto in view of Gilbert, Born, and Agarwal et al., U.S. Patent No. 6,819,658 (Agarwal). Claim 8 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Gilbert in view of Fukumoto and Chiussi et al., U.S. Patent No. 7,027,457 (Chiussi). Claim 9 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Fukumoto in view of Gilbert and Muller, U.S. Patent No. 6,016,310 (Muller). Finally, claims 14 and 15 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Fukumoto in view of Gilbert, Agarwal and Koijma, JP 2001-160832 (Kojima).

Each of these rejected claims is dependent on either claim 1 or claim 12, and thus each is patentable at least based on the patentable features of these claims. Therefore, the separate patentability of these dependent claims will not be argued at this time.

The Applicants note that, of these claims, claim 9 recited an extension function processor connected to the statistic information collecting processor, the extension function processor performing processing to be executed on a higher layer than a layer on which a received packet is transferred. As argued above, the extension function processor is now claimed in the independent claims and thus the Applicants address Muller as follows.

The Office Action appears to assert that Muller discloses the claimed extension function processor as Multi-Layer Distributed Network Element (MLDNE). However, while configured to route message traffic in accordance with a number of known or future routing algorithms, the singular MLDNE disclosed by Muller is not seen to be provided in plural for performing processing to be executed on a higher layer than a layer on which a received packet is transferred, such that one MLDNE is selected from the plural MLDNEs for transmission of a received packet thereto on the basis of the number of packets predicted.

In view of the foregoing amendments and remarks, the Applicants request reconsideration of the rejection and allowance of the claims.

To the extent necessary, Applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the

deposit account of Mattingly, Stanger, Malur & Brundidge, P.C., Deposit Account No.

50-1417 (referencing attorney docket no. H-1100).

Respectfully submitted,

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